

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

**3:09CV17-3-W
(3:05CR358)**

WILLIAM LEVESQUE,)	
)	
)	
Petitioner,)	
vs.)	ORDER
)	
UNITED STATES OF AMERICA,)	
)	
)	
Respondent.)	

THIS MATTER comes before the Court on Petitioner's Motion to Vacate, the Government's response, Petitioner's reply, and Affidavits of Kevin Tate and Ann Hester in support of Petitioner's Motion. (Doc. Nos. 1, 7, 8 and 17.)

The Court held an evidentiary hearing on Petitioner's Motion on August 25, 2010. Petitioner testified at the hearing and was cross examined by counsel for the Government. The Court found Petitioner's uncontroverted testimony to be credible and concluded that Petitioner is entitled to relief on his claim that his counsel was ineffective for failing to challenge his sentence at his sentencing hearing and on appeal on double jeopardy grounds. The Court also concluded that Petitioner's ineffective assistance of counsel claim regarding the voluntariness of his plea was not supported by the record of Petitioner's Plea and Rule 11 hearing. For the reasons stated in open court at the conclusion of the evidentiary hearing, Petitioner's Motion to Vacate is Granted in part and Denied in part.

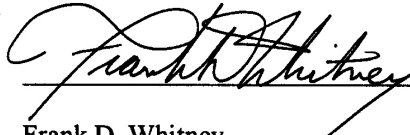
IT IS, THEREFORE, ORDERED, that:

- (1) Petitioner's Motion to Vacate is **GRANTED in part and DENIED in part**;

- (2) Petitioner's ineffective assistance of counsel claim regarding double jeopardy is **GRANTED**.
- (3) Petitioner's remaining claims in his Motion to Vacate are **DENIED**.
- (4) The Clerk is directed to prepare an Amended Judgment in the Criminal Case reflecting a 10 year concurrent sentence on Counts 1 and 3.
- (5) The Clerk is further directed to close this case.

SO ORDERED.

Signed: August 27, 2010


Frank D. Whitney
United States District Judge

